

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of)
)
 Digital Audio Broadcasting Systems) MM Docket No. 99-325
 And Their Impact On the)
 Terrestrial Radio Broadcast Service)

To: The Commission

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 FEDERAL COMMUNICATIONS COMMISSION

COMMENTS OF CORDILLERA COMMUNICATIONS, INC.

Cordillera Communications, Inc. ("Cordillera"), by its attorneys, submits herewith its comments in response to the Commission's Notice of Proposed Rule Making¹ considering methods to introduce and implement digital audio broadcasting ("DAB"). Through wholly-owned subsidiaries, Cordillera owns television stations KIVI(TV) (Nampa, Idaho) and KRIS-TV (Corpus Christi, Texas) – both of which are licensed to operate on NTSC Channel 6.

As a television broadcaster, Cordillera appreciates the challenges of transitioning to a new digital service and applauds the Commission for leading radio broadcasters into a new technology. Cordillera understands first-hand the anticipated and unanticipated problems of implementing new digital technology. However, the Commission's proposed use of Channel 6 for DAB service is not a viable option for transitioning radio into digital service. Such a reallocation would harm television broadcasters and exacerbate the difficulties of establishing a digital radio service. Accordingly, Cordillera strenuously opposes any expansion of the DAB

¹ Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service, *Notice of Proposed Rule Making*, MM Docket 99-325, FCC 99-327 (rel. Nov. 1, 1999) ("Notice").

proceeding to consider terminating longstanding television use of Channel 6 and dedicating the channel's future to a novel and untested DAB service.²

I. THE COMMISSION SHOULD NOT ENGAGE IN CONTINGENT RULE MAKING THAT NEEDLESSLY CREATES UNCERTAINTIES FOR IMPLEMENTING BOTH DTV AND DAB SERVICES.

It would be unreasonable and unwise for the Commission to couple the implementation of DAB and DTV and commit the future use of Channel 6 to an unestablished DAB service while the DTV transition is in process. Significant uncertainty surrounds both DAB and DTV and establishing contingencies between these two services only would compound it. Less than two years ago, and after extensive deliberation, the Commission went to great lengths to eliminate such uncertainties by including Channel 6 in the "core DTV spectrum," keeping the channel available for television service after the DTV transition. The Commission said expanding the core to include Channel 6 eliminated "difficult and burdensome . . . planning uncertainties for many broadcasters" and that this, *inter alia*, "offset" the costly reduction in recoverable spectrum.³ It is unreasonable and contradictory now for the Commission to nullify *sua sponte* its decision to place Channel 6 in the core spectrum and needlessly reintroduce uncertainties it intended to put to rest.

Such uncertainties would be multiplied for prospective DAB licensees who would have to wait until the completion of the DTV transition to commence operations. As the Commission

² Because it is a television broadcaster, Cordillera herein addresses only those issues affecting the possible use of Channel 6 in DAB services. Cordillera takes no position regarding DAB in general or the other specific issues raised in the *Notice*.

³ Advanced Television Systems and Their Impact upon the Existing Television Broadcasting Service, *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, 13 F.C.C.R. 7418 (1998) at ¶¶43, 45 ("*Allotment Reconsideration*").

recognizes, Congress extended the DTV transition period beyond 2006 for those communities that, generally, will have less than 85% DTV market penetration.⁴ Accordingly, the Congressional Budget Office recently concluded that “[i]t now appears likely that the transition will extend beyond 2006 in most markets, with its ultimate end date uncertain.”⁵ In addition, the inevitable disparity in completion dates for the DTV transition among communities will translate into random and unpredictable launch dates for prospective DAB licensees, a truly burdensome and inequitable consequence. Furthermore, the Commission acknowledges that the so-called “IBOC” DAB system could be operational well before 2006,⁶ creating a serious disadvantage for new Channel 6 DAB entrants. Presumably, while existing radio stations charged ahead with their digital broadcasts, new entrants would be anchored to the starting line, relegated to waiting for Channel 6 to become available. This, of course, would add financing and consumer education hardships to the typical start-up adversities. Additionally, by making DAB’s use of Channel 6 contingent upon the successful implementation of DTV, the Commission would create the potential for one stalled digital transition to cascade into two.⁷ The Commission should not deliberately engage in such contingent rule making – especially when the level of uncertainty surrounding both proceedings are so high. To create success for both television and radio digital services, the Commission should focus on ensuring a full implementation rather than creating new hazards for both services.

⁴ 47 U.S.C. § 309(j)(14)(B).

⁵ *Completing the Transition to Digital Television*, Congressional Budget Office, Congress of the United States (Sept. 1999).

⁶ *Notice* at ¶41.

⁷ *E.g.*, while Cordillera takes no position here on the matter, one foreseen source of delay is the current dispute regarding the over-the-air DTV transmission format.

II. REALLOCATING CHANNEL 6 WOULD UNDERMINE THE DTV TRANSITION.

Just two years ago, the Commission was persuaded to dedicate Channel 6 to broadcast television and decided against reallocating it to other services.⁸ The Commission cited several significant reasons for doing so. First, the Commission explicitly stated that low-VHF channels such as Channel 6 “offer desirable propagation characteristics for television service.”⁹ It is not difficult to understand why. The superior quality of low-VHF signals means stations have dramatically lower operating costs. In planning its DTV service, Cordillera has calculated that the power costs alone for operating a non-Channel 6 station will be approximately ten times that for its Channel 6 operations. Such increases in fixed costs significantly impact the economic viability of small market stations such as KIVI(TV) and KRIS-TV. It is critical, then, that these stations retain the option to return to Channel 6.

Second, in retaining Channel 6 for DTV service, the Commission noted that expanding the core spectrum would “provide more flexibility to address new technical information on adjacent DTV channel performance and ensure that there is sufficient spectrum to eliminate DTV-to-DTV adjacent channel interference situations.”¹⁰ If the Commission takes Channel 6 out of the core DTV spectrum, it will lose much of the flexibility to study and resolve adjacent channel interference problems. Third, the Commission stated that dedicating the low-VHF channels to television broadcast service would “promote additional competition and diversity in the provision of DTV services by increasing the availability of channels for new stations and

⁸ *Allotment Reconsideration*.

⁹ *Id.* at ¶42.

¹⁰ *Id.* at ¶43.

networks.”¹¹ Thus, removing Channel 6 from the core spectrum essentially would reduce the opportunities available for new stations and networks.

In sum, nothing has changed in the past two years that suggests the Commission should reevaluate allocating Channel 6 to television service. Indeed, the interference and opportunity concerns partially driving the decision to dedicate Channel 6 to television service still are unresolved and will remain so throughout the DTV transition. Accordingly, the Commission should retain Channel 6 for television service so that existing NTSC Channel 6 licensees may have the option of selecting their traditional channel for use after the close of the DTV transition.

III. REALLOCATING CHANNEL 6 TO DAB DOES NOT COMPORT WITH THE COMMISSION’S ARTICULATED GOALS FOR DAB SERVICE.

Cordillera is not a radio broadcaster and, accordingly, takes no position on the merits of the proposed IBOC or Eureka-147 DAB systems. However, to the extent that a proposed system could impact its continued use of Channel 6, Cordillera is compelled to note the inconsistencies between the contemplated use of Channel 6 for DAB service and the Commission’s articulated DAB goals. These inconsistencies reveal the inadequacy of the Commission’s proposal to allocate Channel 6 for DAB service.

The Commission states that any DAB system adopted must be “spectrum efficient.”¹² Dual analog and digital use of existing FM bandwidth is efficient use of spectrum; displacing traditional Channel 6 operations is not. The Commission also says it wishes “to foster a rapid and non-disruptive transition to DAB,”¹³ but waiting until the end of the DTV transition period

¹¹ *Id.*

¹² *Notice* at ¶17.

¹³ *Id.* at ¶18.

to commence DAB service will delay DAB implementation for an unknown period of time. The Commission also says it will favor DAB systems that do not require burdensome investments in new equipment,¹⁴ yet reallocating Channel 6 to DAB would change the band parameters for FM equipment – delaying the availability of consumer products and impeding consumer acceptance of the new service. In short, committing Channel 6 to DAB service fails to meet the Commission’s stated goals. The Commission accordingly should not reallocate Channel 6 and stray from its articulated standards.

Conclusion


The Commission has before it the difficult task of successfully implementing DTV service and overseeing the development, implementation and transition of DAB service. Reallocating Channel 6 from DTV service to DAB service would only complicate these efforts without any countervailing public benefit. The Commission thoroughly considered the allocation of Channel 6 two years ago. It reached a rational conclusion at that time that the channel should be retained for use in television service. To remove Channel 6 from the core spectrum now would disrupt the DTV transition plans of television broadcasters like Cordillera who believed they would at least have the option of returning to Channel 6 at the completion of the DTV transition. Moreover, there appears to be no need for or benefit to using Channel 6 for DAB. Rather, such a reallocation would delay DAB implementation, create technical and timing uncertainties for radio stations transitioning to DAB, and result in the inefficient use of spectrum

¹⁴ *Id.*

for this new service. Based upon the foregoing, Cordillera urges the Commission not to use Channel 6 for the implementation of DAB service.

Respectfully submitted,

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